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ALEXANDER L. STEVAS,

82-792

No. 82-792

In The

# Supreme Court of the United States

October Term, 1982

GROVE CITY COLLEGE, individually and on behalf of its students; MARIANNE SICKAFUSE; KENNETH J. HOCKENBERRY; JENIFER S. SMITH and VICTOR E. VOUGA,

*Petitioners,*

*vs.*

T. H. BELL, Secretary of U.S. Department of Education; HARRY M. SINGLETON, Acting Assistant Secretary for Civil Rights, U.S. Department of Education,

*Respondent.*

## JOINT APPENDIX

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**Petition for Certiorari filed November 9, 1982**
**Certiorari granted February 22, 1983**

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In The

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GROVE CITY COLLEGE, individually and on behalf of its students; MARIANNE SICKAFUSE; KENNETH J. HOCKER; PERRY; JENIFER S. SMITH and VICTOR E. VOUGA,

*Petitioners,*

*vs.*

T. H. BELL, Secretary of U.S. Department of Education; HARRY M. SINGLETON, Acting Assistant Secretary for Civil Rights, U.S. Department of Education,

*Respondent.*

## JOINT APPENDIX

### CIVIL ACTION DOCKET SHEET.

CA-78-1293

| DATE | NR. | PROCEEDINGS: |
|---|---|---|
| 1978 | | |
| Nov. 13 | 1 | Complaint filed. |
| Nov. 33 | — | Summons issued. |
| Dec. 8 | 2 | Summons returned served 11/24/78 on David Tatel by cert. mail; Califano 11/22/78 by cert. mail. |
| 1979 | | |
| Jan. 22 | 3 | Motion for enlargment of time filed with proposed order thereon. |

*Civil Action Docket Sheet*

Jan. 23 w/3 ORDER entered directing time for defendants to answer, move or otherwise respond to complaint enlarged to 3/22/79 (Simmons J)

Mar. 26 4 ANSWER Filed.

June 11 5 Order entered June 7, 1979 directing that a Status Conf. will be held on this Case on Aug 13, 1979 at 10:30 A.M. before Judge Simmons (Simmons, J.)

June 13 6 Pretrial notice filed (Simmons, J.)

July 6 7 Notice resetting status conference to 9/13/79 at 2:30 PM (Simmons, J.)

Aug. 6 7A Motion for judgement on the pleadings filed and ORDER

Aug. 23 8 ORDER entered directing argument 9/13/79 at 2:30 PM (Simmons, J.)

Sept. 4 9 Motion to continue hearing filed with proposed order thereon.

Oct. 15 w/9 ORDER entered directing hearing on plfs' motion for judgment on pleadings continued 10 11/13/79 at 4:00 PM (Simmons, J.)

Nov. 8 10 Motion for summary judgment filed with proposed order thereon, together with administrative record

Nov. 14 11 Hearing held on all motions before Simmons, J. and concluded CAV. Memo filed (Rep. Goodworth)

Dec. 12 12 Transcript of proceedings held (Rep. Goodworth)

1980

March 10 13 Preliminary statement findings of fact, conclusions of law, discussion and order entered directing Plaintiffs' motion for summary judgment granted; further ordered that HEW form 639A as drafted in July 1976 invalide, void and of no effect; further ordered defendants,

agents, employees and persons acting in concert with them are permanent enjoined from doing any of following as further stated; further ordered that plfs. and defendants granted period of 10 days from receipt of these findings of fact, conclusions of law and order to take exception to same. If exceptions filed court will set up briefing schedule and date for argument on same within 10 days thereafter (Simmons, J.)

March 21 14 Defendants' exceptions to findings of fact, conclusions of law and order filed

Mar. 25 15 Exception to opinion of the Court filed by pltfs.

May 2 16 Hearing held on def's motion of exceptions and concluded CAV before Simmons, J., Memo filed (Rep. Goodworth)

June 26 17 Amended preliminary statement findings of fact, conclusions of law, discussion filed and ORDER entered directing Roma J. Stewart substituted as a defendant in the case in place of Davit Tatel; further ordered that defs' motion for summary judgment denied; further ordered that plfs' motion for summary judgment granted; further ordered that HEW Form 639A as drafted in July 1976 invalide, void & of nc effect; further ordered that defs. and successor administrators of statutes, laws and regulations permanently enjoined from using HEW Form 639A as presently composed and drafted from terminating or refusing to grant or attempting to terminate or refusing to grant plfs. Federal financial assistance under Federal Basic Education Opportunity Grant for non-compliance with Title IX and/or regulations promulgated unless sex discrimination involving either admissions & recruitment has been properly proved at full hearing adequate notice to all persons affected by said proceeding and from terminating at time the Student Loan Program now in effect at Grove City College (Simmons, J.)

*Civil Action Docket Sheet*

June 26 — Pursuant to amended findings of fact, conclusions of law and order entered, judgment of record hereby entered accordingly

GILBERT W. CONLEY, *CLERK*

Aug. 22 18 Notice of appeal filed by U.S.

Aug. 25 — Copies of notice of appeal to US Ct. of Appeals; appellee; letters to counsel; Judge; Court Reporter

Sept. 3 19 Notice of Cross Appeal filed by the Pltf. Grove City College.

Sept. 9 — Original record mailed to US Ct. of Appeals.

Sept. 19 — Receipt received from the U.S. Court of Appeals for Original Record.

Oct.2 — Notice received from the U.S. Court of Appeals that the above case was docketed at (80-2383 and 80-2384)

**COMPLAINT, filed 11-13-78.**

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

COMPLAINT

Civil Action No. 78-1293

---

GROVE CITY COLLEGE, Individually and on behalf of its students; MARIANNE SICKAFUSE; KENNETH J. HOCKENBERRY; JENIFER S. SMITH; and VICTOR E. VOUGA,

*Plaintiffs,*

*vs.*

JOSEPH A. CALIFANO, JR., Secretary of the United States Department of Health, Education and Welfare; DAVID TATEL, Director of the United States Office for Civil Rights,

*Defendants.*

---

Plaintiffs, for their complaint, allege upon information and belief that:

JURISDICTION

1. This action arises under Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended 88 Stat. 1862 (1974), 90 Stat. 2234 (1976), 20 U.S.C. §1861 *et seq.*, ("Title IX") as hereinafter more fully appears. The court has jurisdiction for review pursuant to Title IX, 20 U.S.C. §1682; The Administrative Procedure Act, 5 U.S.C. §701 *et seq.;* The Federal Declaratory Judgment Act, 28 U.S.C. §§2201 and 2202; 28 U.S.C. §1331; and 28 U.S.C. 1361.

*Complaint, filed 11/13/78*

## PARTIES

2. Grove City College ("The College") is a private coeducational institution of higher education, affiliated with the United Presbyterian Church, located in Grove City, Pennsylvania, and chartered as an educational institution under the laws of the Commonwealth of Pennsylvania.

3. Marianne Sickafuse, a resident of Pennsylvania, is a fulltime student at the College who is a recipient of a Basic Educational Opportunity Grant totaling $400.00 for the academic year 1978-79.

4. Kenneth J. Hockenberry, a resident of New Jersey, is a fulltime student at the College who is a recipient of a Basic Educational Opportunity Grant totaling $600.00, as well as a Guaranteed Student Loan totaling $2000.00, for the academic year 1978-79.

5. Jenifer S. Smith, a resident of Pennsylvania, is a fulltime student at the College who is a recipient of a Guaranteed Student Loan totaling $1000.00 for the academic year 1978-79.

6. Victor E. Vouga, a resident of Wisconsin, is a fulltime student at the College who is a recipient of a Guaranteed Student Loan totaling $2500.00 for the academic year 1978-79.

7. Defendant Joseph A. Califano, Jr. (the "Secretary") is secretary of the Department of Health, Education, and Welfare ("HEW"). HEW is administered under the supervision and direction of Defendant Secretary Califano.

8. Defendant David Tatel, is Director of the Office for Civil Rights ("OCR"), the division of HEW responsible for enforcement of Title IX. The Office for Civil Rights is administered under the supervision and direction of Defendant Director Tatel.

*Complaint, filed 11/13/78*

*FIRST CLAIM FOR RELIEF*

9. Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 *et seq.* ("Title IX") provides, *inter alia:*

> (a) No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . . (20 USC § 1681(a)).

10. In enforcing the non-discrimination requirements of Title IX, each federal department and agency which is empowered to extend federal financial assistance, other than a contract of insurance or guaranty, is authorized to issue rules, regulations, and orders. 20 U.S.C. § 1982. Pursuant to this authority, the Secretary has issued regulations establishing certain requirements for recipients of federal financial assistance administered under the auspices of HEW. In addition, the Secretary has designated the Director of OCR as his chief enforcement officer under Title IX. 45 C.F.R., Part 86 (1977).

11. The Secretary's regulations have defined federal financial assistance to include funds made available for:

> (i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and
>
> (ii) Scholarships, loans, grants, wages or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that entity.
>
> (2) A grant of Federal real or personal property or any interest therein, including surplus property, and the proceeds of the sale or transfer of such property, if the

> Federal share of the fair market value of the property is not, upon such sale or transfer, properly accounted for to the Federal Government.
>
> (3) Provision of the services of Federal personnel.
>
> (4) Sale or lease of Federal property or any interest therein at nominal consideration, or at consideration reduced for the purpose of assisting the recipient or in recognition of public interest to be served thereby, or permission to use Federal property or any interest therein without consideration.
>
> (5) Any other contract, agreement, or arrangement which has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty.

45 CFR 86.2(g) (1) (1977).

12. The Secretary's regulations have defined a recipient of Federal financial assistance as follows:

> (h) "Recipient" means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates and education program or activity which receives or benefits from such assistance, including any subunit, successor, assignee, or transferee thereof.

45 CFR 86.2(h) (1977).

13. The Secretary requires that an Assurance of Compliance (Form 639) with Title IX be executed by all educational institutions which it considers to be recipients of federal financial assistance, or for all institutions which are applicants for federal financial assistance. See 45 CFR 86.4 (1977).

14. This Assurance of Compliance (Exhibit A) is not limited to any specific educational program or activity carried out by the recipient or applicant, but requires a contractual guarantee that the signatory educational institution will comply with *all* regulations issued by HEW pursuant to Title IX without limitation.

15. Currently the aforementioned regulations include, *inter alia,* those concerning employment, housing, athletics, health services, counseling, and employment assistance to students. 45 CFR, subparts D & E (1977).

16. The College receives no Federal or State financial aid and more particularly, receives no financial aid from either the Secretary or the Commonwealth of Pennsylvania, but receives substantially all its income from gifts, endowment and student fees.

17. One Hundred Forty (140) of the College's students, including Kenneth J. Hockenberry and Marianne Sickafuse, are eligible to receive Basic Educational Opportunity Grants ("BEOG's") appropriated by Congress and allocated by the Secretary pursuant to 20 U.S.C. § 1070a.

18. The College's sole function with respect to BEOG's is to certify that students applying for the grants are matriculating at the college.

19. BEOG's are distributed by the Secretary directly to students, including students such as Kenneth J. Hockenberry and Marianne Sickafuse, without participation or knowledge of the College.

20. Three Hundred Forty-two (342) of the College's current students, including Kenneth J. Hockenberry, Jenifer S. Smith and Victor E. Vouga, have obtained loans from private lending institutions or banks which are guaranteed by the Commonwealth of Pennsylvania. The United States, in turn,

guarantees 80% of the Commonwealth's obligation. The interest due upon these loans is paid directly to the private lending institutions or banks, for a limited period of time, by the United States through the Secretary pursuant to provisions of the Guaranteed Student Loan Program ("GSL"), 20 U.S.C. §§ 1071 *et seq.*

21. The College's sole function with respect to the GSL program is to certify a student's enrollment and the College's own current schedule of educational expenses.

22. GSL funds are distributed to students, including students such as Kenneth J. Hockenberry, Jenifer S. Smith and Victor E. Vouga, without participation or knowledge of the College.

23. During July 1976, the Secretary requested the College to execute an Assurance Compliance, as required by 45 CFR § 86.4 (1977), requiring *inter alia,* assurance that the College was operating federally-funded educational programs in compliance with Title IX and all applicable HEW regulations (45 CFR, part 86) implementing Title IX.

24. The College refused to execute HEW's Assurance of Compliance on the grounds that it receives no federal financial assistance.

25. Pursuant to 45 CFR Parts 80, 81 and 86 (1977), the Secretary began proceedings to declare the College and thereby its students, including Marianne Sickafuse, Kenneth J. Hockenberry, Jenifer S. Smith and Victor E. Vouga, ineligible to receive BEOGs, GSLs and any other federal financial assistance administered by the Secretary.

26. Following a hearing before an administrative law judge, by decision and order dated September 18, 1978 ("Order"), the College was found to be a recipient of federal financial assistance. The decision of the Administrative Law Judge further found that "there was not the slightest hint of any

failure to comply with Title IX save the refusal to submit an executed Assurance of Compliance with Title IX."

27. As a consequence of the order, the College and thereby its students, including Marianne Sickafuse, Kenneth J. Hockenberry, Jenifer S. Smith and Victor E. Vouga, were declared ineligible to participate in either the BEOG or GSL programs.

28. Students attending the College, including Marianne Sickafuse, Kenneth J. Hockenberry, Jenifer S. Smith and Victor E. Vouga, who have already been granted funds under either the BEOG or the GSL programs will, according to the order, receive no further funds under either program.

29. The order is a final order of the Secretary. 45 CFR § 81-104 (1977).

30. Plaintiffs have exhausted their administrative remedies. 45 CFR § 81.106 (1977).

31. Plaintiffs are aggrieved and irreparably harmed by the actions of the Secretary and the order.

32. As applied to the College and its students, 45 CFR 86.2(g) and 86.2(h) (1977) are outside the power of the Secretary to enforce.

33. The order and decision dated September 18, 1978, and the prior orders of the Secretary requiring the College to execute the Assurance of Compliance are null and void.

*SECOND CLAIM FOR RELIEF*

PLAINTIFFS REPEAT AND REALLEGE PARAGRAPHS 1 THROUGH 31, AND FURTHER ALLEGE:

34. There exists between the parties to this action an actual, justiciable controversy within the purview of the Declaratory

Judgment Act, 28 U.S.C. §2201, and plaintiffs are entitled to a declaration that:

A. The College need not execute the Assurance of Compliance of the Secretary;

B. As applied to the College, 45 CFR 86.2(g) and 86.2(h) (1977) are outside the power of the Secretary to enforce.

*THIRD CLAIM FOR RELIEF*

PLAINTIFFS REPEAT AND REALLEGE PARAGRAPHS 1 THROUGH 31, AND FURTHER ALLEGE:

35. There exists between the parties to this action an actual, justiciable controversy within the purview of the Declaratory Judgment Act, 28 U.S.C. § 2201, and plaintiffs are entitled to a declaration that:

A. The College need not execute the Assurance of Compliance of the Secretary;

B. As applied to the College, 45 CFR, subparts D & E (1977), are outside the statutory authority of Title IX.

*FOURTH CLAIM FOR RELIEF*

PLAINTIFFS REPEAT AND REALLEGE PARAGRAPHS 1 THROUGH 31, AND FURTHER ALLEGE:

36. The decision and order of September 18, 1978, were arbitrary, capricious and an abuse of discretion, in that, *inter alia*, the Administrative Law Judge failed to declare invalid the Secretary's application of the regulations, 45 CFR 86.2(g) & (h) (1977), and failed to declare invalid the Secretary's requirement that an Assurance of Compliance be executed.

*Complaint, filed 11/13/78*

*FIFTH CLAIM FOR RELIEF*

PLAINTIFFS REPEAT AND REALLEGE PARAGRAPHS 1 THROUGH 31, AND FURTHER ALLEGE:

37. The College's constitutional right to manage and operate its institution as it sees fit, free from unreasonable governmental interference, is violated by the Secretary's requirement that it sign an Assurance of Compliance. Furthermore,the First Amendment rights of the College and its students to associate in an academic community holding deeply felt moral, cultural, and political values are unconstitutionally violated by the Secretary's actions.

38. There exists between the parties to this action an actual, justiciable controversy within the purview of the Declaratory Judgment Act, 28 U.S.C. § 2201, and pliantiffs are entitled to a declaration that:

A. The College need not execute the Assurance of Compliance of the Secretary;

B. The application of Title IX and its implementing regulations violates rights guaranteed to the College and its students under the First and Fifth Amendments to The Constitution of the United States.

WHEREFORE, plaintiffs demand that the Court adjudge, decree and declare alternatively either that:

A. The College need not execute the Assurance of Compliance of defendant;

B. Defendant's regulations requiring compliance with Title IX are promulgated without authority in requiring execution by the College of the Assurance of Compliance;

C. Defendant's regulations requiring compliance with Title IX are unconstitutionally applied to the College.

D. Defendants cannot require the College to comply with regulations which are beyond its statutory authority to promulgate and is enjoined from so doing.

E. Any other relief which may be proper.

Dated: November , 1978

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**ANSWER, filed 3-26-79.**

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Civil Action No.
78-1293

GROVE CITY COLLEGE, *et al.*,

*Plaintiffs,*

*v.*

JOSEPH A. CALIFANO, JR., Secretary of the United States Department of Health, Education and Welfare; DAVID TATEL, Director of the United States Office for Civil Rights,

*Defendants.*

*ANSWER*

Defendants Joseph A. Califano, Jr. and David Tatel, by their attorneys, for their Answer to the Complaint herein allege as follows:

*FIRST DEFENSE*

The Plaintiffs fail to state a claim upon which relief can be granted.

*SECOND DEFENSE*

In response to the numbered paragraphs of the Complaint, defendants hereby admit, deny and otherwise allege as follows:

1. This paragraph contains plaintiffs' characterization of this action and no allegations of fact for which an answer is required, but insofar as an answer may be deemed required, it is denied.

2. Admitted.

3. Denied for lack of information or knowledge sufficient to determine the truth of the allegations.

4. Denied for lack of information or knowledge sufficient to determine the truth of the allegations.

5. Denied for lack of information or knowledge sufficient to determine the truth of the allegations.

6. Denied for lack of information or knowledge sufficient to determine the truth of the allegations.

7. The allegations in the first sentence of paragraph 7 are admitted; the allegations in the second sentence of paragraph 7 are denied and the Court is respectfully referred to the relevant sections of the United States Code for a true characterization of the duties of Defendant Secretary Califano.

8. The allegations in the first sentence of paragraph 8 are admitted; the allegations in the second sentence of paragraph 8 are denied and the Court is respectfully referred to the relevant sections of the United States Code for a true characterization of the duties of Defendant Director Tatel.

9. Admitted.

10. Admitted that each Federal department and agency which is empowered to extend Federal financial assistance, other than a contract of insurance or guaranty, is authorized and directed to issue rules, regulations, and orders, to effectuate the provisions of 20 U.S.C. Section 1681, 20 U.S.C. Section 1682; that pursuant to the above authority the Secretary has promulgated regulations, duly reviewed by Congress and signed by the President, which establish certain requirements for recipients of Federal financial assistance administered by and through the Department; and that the Secretary has designated the Director of OCR as his chief

enforcement officer under Title IX. 45 C.F.R., Part 86 (1977). All other allegations contained in paragraph 10 are denied.

11. Admitted.

12. Admitted.

13. Denied, and the Court is respectfully referred to 45 C.F.R. Section 86.4.

14. Denied, and the Court is respectfully referred to the Assurance of Compliance for the true meaning thereof.

15. Denied, and the Court is respectfully referred to 45 C.F.R. Subparts D and E (1977) for the true meaning thereof.

16. Denied insofar as the allegations in paragraph 16 relate to Federal financial assistance and otherwise denied for lack of information or knowledge sufficient to determine the truth of the allegations.

17. Admitted that a number of the Plaintiff College's students are eligible to, and do, receive Basic Educational Opportunity Grants ("BEOG"), but the allegations as to the exact number of students at the College who may be eligible for such grants are denied for lack of information or knowledge sufficient to determine the truth of the allegations.

18. Denied.

19. Denied.

20. Admitted that some of the Plaintiff College's students receive loans provided through the Guaranteed Student Loan ("GSL") Program which is administered by the defendant Secretary the allegations as to the number of students at the Plaintiff College receiving loans are denied for lack of information or knowledge sufficient to determine the truth of the allegations; and the remaining allegations in paragraph 20 are denied.

21. Denied.

22. Denied.

23. Admitted and the Court is respectfully referred to the Assurance of Compliance for the contents thereof.

24. Admitted.

25. The allegations in paragraph 25 are admitted insofar as they allege that proceedings were commenced pursuant to 45 C.F.R. Parts 80, 81 and 86 to declare the Plaintiff College ineligible to receive Federal financial assistance administered by the Defendant Secretary, and all other allegations in paragraph 25 are denied, including the allegation that proceedings were initiated to declare students at the Plaintiff College ineligible to receive Federal financial assistance administered by the Defendant Secretary.

26. Denied and the Court is respectfully referred to the decision and order of the administrative law judge for the true contents thereof. The allegations in the second sentence of paragraph 26 are further specifically denied insofar as they imply that the administrative law judge made a factual finding that the Plaintiff College does not discriminate in violation of Title IX.

27. The allegations in paragraph 27 are admitted insofar as they allege that the Plaintiff College was declared ineligible to participate in either the BEOG or GSL programs, denied insofar as they allege that the students at the Plaintiff College were declared ineligible to participate in those programs, and the Court is respectfully referred to the decision and order of the administrative law judge for the true contents thereof.

28. The allegations in paragraph 28 are denied insofar as they allege that the decision of the administrative law judge affects student eligibility under the BEOG or GSL programs

and otherwise are denied for lack of information or knowledge sufficient to determine the truth of the allegations.

29. Admitted.

30. Admitted.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

WHEREFORE, defendants, having fully answered, respectfully pray for judgment denying each and every prayer for relief, dismissing the action, granting defendants their costs and granting such other and further relief as the Court deems just and proper.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing Answer upon plaintiffs by mailing a copy thereof in a postage prepaid envelope on this 22nd day of March, 1979, to:

Nixon, Hargrave, Devans & Doyle
Lincoln First Tower
Rochester, New York 14603

MARK C. RUTZICK

**AFFIDAVIT OF CHARLES S. MacKENZIE IN SUPPORT OF MOTION.**

IN THE UNITED STATES COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Civil Action No. 78-1293

GROVE CITY COLLEGE, Individually and on behalf of its students; MARIANNE SICKAFUSE; KENNETH J. HOCKENBERRY; JENIFER S. SMITH; and VICTOR E. VOUGA,

*Plaintiffs,*

*vs.*

JOSEPH A. CALIFANO, JR., Secretary of the United States Department of Health, Education and Welfare; DAVID TATEL, Director of the United States Office for Civil Rights,

*Defendants.*

CHARLES S. MACKENZIE, being duly sworn, says:

1. I am President of Grove City College ("the College"), a plaintiff in the above-captioned action, and make this affidavit in support of plaintiff's motion.

2. The College is a 4-year, private coeducational institution, affiliated with the United Presbyterian Church, and chartered as an educational institution under the laws of the Commonwealth of Pennsylvania.

3. The College has consistently maintained a policy that as a private education institution guided by deeply held moral, religious, and political beliefs, it should maintain both a Christian world-view and a freedom philosophy. Toward that end it has dedicated itself to maintaining its independence by

erecting a wall of separation between itself and government. In accordance with that policy, the College has promulgated the following statement:

> For over 100 years Grove City College has affirmed both a Christian world view and a freedom philosophy. Those guiding Grove City believe that freedom and Christian faith are interrelated and interpendent.
>
> Grove City College exhibits its own independence and freedom by rejecting funding from any government agency. Though charges to its 2200 students are among the lowest of any quality college in America, for many years the College has operated "in the black" and has no indebtedness. Efficiency and productivity are carefully balanced with a high academic program. Grove City's total charges are about $2,000 lower than average charges of other private four-year colleges. This is accomplished without government funding which is avoided to preserve the College's independence and freedom.

4. The College has consistently maintained this policy of refusing to accept any state or federal aid. Accordingly, all of its buildings and other capital improvements are funded from private monies. In addition, the College receives substantially all of its operating income from gifts, endowment, and student fees. It receives no state or federal funding.

5. Because the cost of education has risen greatly in the past decades, however, the College has maintained a policy that upon the request of a student and at the student's sole discretion, it will provide information and/or certify a student's enrollment to any organization, private or governmental, which requires information about students who request the financial assistance necessary to complete their educations.

6. As more fully set out in the affidavit of L.L. Crill, the College's Financial Aid Officer, the participation of the

College in the Basic Educational Opportunity Grants ("BEOG") and Guaranteed Student Loan ("GSL") Programs is confined solely to those ministerial acts. It receives no direct funding from HEW through the BEOG or GSL programs, nor does it determine student eligibility, financial need, or otherwise participate in these programs. Instead the students receive direct payments, either from HEW or private lenders, which are applied, at their discretion, to their educational expenses.

7. On July 15, 1975, I signed an "Agreement Regarding Institutional Participation in the Guaranteed Student Loan Program." (See Exhibit P-9, p. 3 to HEW Administrative Hearing, attached.) The Agreement was limited in scope, and concerned only the College's pledge that, consistent with the regulations in 45 CFR Subpart 177f, it would maintain records and establish policies consistent with maintaining the integrity of federally guaranteed student loans. As I noted in my letter accompanying the agreement (Exhibit P-9, p. 6 to HEW Administrative Hearing, attached), I regarded the agreement as limited to providing that moneys provided to students by the federal government were properly safeguarded should students terminate their enrollment at the College. It was my understanding that 45 CFR Subpart 177f is similarly so limited.

8. On or about April 4, 1977, I received a request from Albert T. Hamlin, Acting Director, Office of Civil Rights, to sign an Assurance of Compliance under Title IX of the Education Amendments of 1972 (Exhibit X-5 to Administrative Hearing). Because the College receives no federal financial assistance, with the approval of the College Board of Trustees I refused to sign the Assurance, which was purportedly required by 45 CFR §86.4 (1977). Another request was received from David Tatel, Director of the Office for Civil Rights, on or about August 1, 1977 (Exhibit X-6 to Administrative Hearing).

9. Mr. Tatel notified me on or about December 8, 1977, that due to the failure of the College to sign an Assurance of Compliance, he had referred the matter to the Office of the General Counsel of HEW with a recommendation that enforcement proceedings be commenced (Exhibit X-7 to Administrative Hearing). Those proceedings were commenced on or about December 2, 1977 when a Notice of Hearing was served upon me (Exhibit X-4 to Administrative Hearing).

10. A hearing was held before Administrative Law Judge Albert P. Feldman at Philadelphia, Pennsylvania, on March 10, 1978. In a Decision and Order dated September 16, 1978, Judge Feldman found that the College, due to the receipt by its students of BEOG and GSL funds, was a recipient of Federal financial assistance. Because the College refused to sign the Assurance of Compliance, Judge Feldman ordered that all financial assistance administered by HEW was to be terminated and no longer granted to students of the College, including specifically the BEOG and GSL programs.

11. It was solely because of the College' refusal to sign the Assurance of Compliance that HEW instituted compliance proceedings, and it was solely for this reason that Administrative Law Judge Albert P. Feldman ordered that all financial assistance administered by HEW was to be terminated and refused to be granted to the College. See Notice of Hearing and Decision and Order of September 16, 1978.

12. As Judge Feldman noted in his decision at p. 12, however, ". . . there was not the slightest hint of any failure to comply with Title IX save the refusal to submit an executed assurance of compliance with Title IX." Grove City College does not discriminate, and, moreover, it asserts no right to discriminate. As its catalog states on the title page:

*Affidavit of Charles S. MacKenzie, dated 7/23/79*
"NOTICE OF NON-DISCRIMINATION POLICY"

> Grove City College, a private educational institution, admits students of any race, color, sex, religion, and national or ethnic origin to all of the rights, privileges, programs, and activities generally accorded or made available to students at the College. Grove City College does not discriminate on the basis of race, color, sex, religion, and national or ethnic origin in the administration of its educational programs, admission policies, scholarship and loan progams, athletics, co-curricular activities or other College-administered programs."

13. Instead, as Administrative Law Judge Feldman noted, the refusal of the College to sign the Assurance of Compliance "is obviously a matter of conscience and belief." See Decision at p. 12. Because the College has scrupulously avoided the receipt of any federal or state aid, it refuses to sign a potentially unlimited contractual obligation to comply with all regulations issued by HEW, present and future, regarding all aspects of the College's operations, including employment, housing, athletics, health services, counseling, and assistance to students.

14. It is for this reason that the college seeks a determination by this court that: (1) The College need not execute the Assurance of Compliance sought by Defendants; (2) A declaration that Defendant's regulations requiring compliance with Title IX are not applicable to the College; and (3) That Defendant's regulations requiring compliance with Title IX are unconstitutionally applied to the College.

/s/ CHARLES S. MACKENZIE

Subscribed and sworn to before
me on July 23, 1979.

/s/ Carl M. Sautter
Notary Public
CARL M. SAUTTER, Notary Public
Grove City, Mercer Co. Pa.
My Commission Expires Sept. 5, 1981

[Exhibits omitted]

**AFFIDAVIT OF LELAND L. CRILL IN SUPPORT OF MOTION.**

IN THE UNITED STATES COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

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GROVE CITY COLLEGE, Individually and on behalf of its students; MARIANNE SICKAFUSE; KENNETH J. HOCKENBERRY; JENIFER S. SMITH; and VICTOR E. VOUGA,

*Plaintiffs,*

*vs.*

JOSEPH A. CALIFANO, JR., Secretary of the United States Department of Health, Education and Welfare; DAVID TATEL, Director of the United States Office for Civil Rights,

*Defendants.*

---

LELAND L. CRILL, being duly sworn, deposes and says:

1. I am Financial Aid Officer for Grove City College ("the College"), a Plaintiff in the above-captioned action, and have held this position for the past fourteen years. I make this affidavit in support of plaintiff's motion.

2. The policy of the College's Financial Aid Office, as set by the President and the Board of Trustees, is not to participate in any federal or state student financial aid programs which provides governmental funds to the College, or which would require any determination by the College of a student's eligibility to receive financial aid.

Accordingly, the College has never participated in the so-called "campus-based programs" administered by the defen-

dant Department of Health, Education and Welfare ("HEW"). Specifically, the College has never participated in the Supplemental Educational Opportunity Grants Program ("SEOG"), authorized by 20 USC §1070b, which requires that: 1) an institution of higher education request Federal allocations from the SEOG program; 2) receive Federal funds administered through HEW; and 3) distribute those funds to students it deems eligible, under relevant HEW criteria. See 45 CFR Part 176 (1978). Nor has the College applied for or received funds under the College Work Study Program authorized by 42 USC §2751 *et seq.*, which requires a similar receipt of Federal funds administered by HEW and the establishment of part-time job opportunities for students deemed eligible by an educational institution, which employment is paid in part by the Federal Funds and in part by the institution. See 45 CFR Part 175. Finally, the College has never participated in the National Direct Student Loan Program, authorized by 20 §USC 1087aa *et seq.*, by which Federal funds are paid directly to institutions of higher education, which in turn determine student eligibility and administer the loan program. See 45 CFR Part 144 (1978).

3. The sole role of the Financial Aid Office with regard to student aid programs is to provide the same information it supplies for any organization, whether private or governmental, which supplies financial assistance to our students. More specifically, the Financial Aid Office will certify a student's attendance of the college, indicate whether the student is full-time or part-time, and provide general information as to the College's academic program and the cost of tuition, room, and board to its students. Upon request, the Financial Aid Office will also certify whether a student continues to attend the College. (See Ex. P-9, p. 3 to Administrative Hearing, attached to MacKenzie Affidavit.) The Financial Aid Office also maintains records to protect against repayment defaults and has instituted a fair and reasonable refund policy.

*Affidavit of Leland L. Crill, dated 7/23/79*

4. With regard to the Basic Educational Opportunity Program ("BEOG"), the College has advised HEW that it does not wish to calculate BEOG awards, to receive Federal funds, or to make disbursements to students. In response to the College's notification, HEW has requested the College to provide forms to students desiring BEOG awards in lieu of its participation. (See January 14, 1974 letter of Peter K.V. Voight, attached as Exhibit A.)

5. Thus, the only participation the College has in the BEOG program is to fill out the information requested in Part B of the "Request for Payment of BEOG Award" (DE Form 304, a blank copy of which is attached as Exhibit B). In addition, the Financial Aid Office certifies that the student is enrolled at the College. Most of the information provided by the College, which includes the length of the academic year and the cost of tuition, room and board, is published in its catalog. The only other information provided is the student's attendance status and the student's expected beginning and ending dates of attendance. After the form is completed, it is returned to the student. Upon information and belief, the student submits the form to the Basic Grants Program, which then makes an award. At no time after the College's completion of the form does it have any participation in the BEOG program, as the award is paid directly to the student.

6. The College's participation in the Guaranteed Student Loan Program ("GSL") is similarly limited. Students desiring these loans obtain approval from a private lending institution. A form is then sent to the College, which provides essentially the same information as it provides for the BEOG program. (See form attached as Exhibit C.) The College then returns the form to the student or his bank, which then processes the application through the state GSL program, and makes the loan out of its own funds. Although some student's checks are payable jointly to the student and the College, the proceeds are applied directly to the student's account. The College does not request

this procedure, but instead regards it a means chosen by the lending institution to ensure that loan proceeds are applied to the student's educational expenses.

7. The Financial Aid Office cooperates in no other HEW-administered student aid programs other than the two outlined above.

/s/ LELAND L. CRILL

Subscribed and sworn to
before me on July 23, 1979.

/s/ CARL M. SAUTTER
Notary Public
CARL M. SAUTTER, Notary Public
Grove City, Mercer Co., Pa.
My Commission Expires Sept. 5, 1981

**Exhibit A — Letter, dated 1-14-74 attached to Crili Affidavit.**

Dr. MacKenzie
President
Grove City College
Grove City, Pennsylvania 16127

January 14, 1974

Dear President:

We have been advised by the Basic Grants Coordinator for your Region that your institution does not wish to participate in the Basic Educational Opportunity Grant (BEOG) Program at this time.

As you know, eligible students may receive Basic Grant awards for attending eligible institutions regardless of whether such institutions have filed with the U.S. Commissioner of Education an agreement to calculate BEOG awards and to make disbursements to students. In view of your institution's decision not to participate in the BEOG Program at this time, we are providing to your institution (under separate cover) a supply of a form letter (addressed to "Dear BEOG Applicant") with copies of OE Form 304 which may be used by eligible students in applying for payment of their BEOG awards directly from the U.S. Commissioner of Education. Additional supplies of the form letter and OE Form 304 may be requested as needed from BEOG, Box O, Iowa City, Iowa 52240.

To be eligible for a BEOG award, a student must be a first-time, full-time student during the academic year 1973-74; please supply one set of the form letter (with OE Form 304) to each potentially eligible student so that he or she may apply directly for a BEOG award. Your assistance in providing forms to eligible students so that they may apply for their BEOG awards will be greatly appreciated.

*Letter, dated 1/14/74*

We hope that your institution may decide at a future date to participate in the BEOG Program since your participation would provide for a faster and more personalized financial aid service to the students who attend your institution. If you decide to participate, please let us know so that we may provide copies of our Institutional Agreement form to you.

Thank you for your interest in the Basic Educational Opportunity Grant Program.

Sincerely,

/s/ PETER K.U. VOIGT
Acting Coordinator
Basic Educational Opportunity
Grant Program

CC: Mr. Leland Crill
Financial Aid Officer

Enclosing: Application for Determination of
Family Contribution
Dear BEOG Applicant letter
with OE Form 304

**Exhibit B — Instructions for Completing OE Form 304 attached to Crill Affidavit**

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
BUREAU OF STUDENT FINANCIAL ASSISTANCE
WASHINGTON, D.C. 20202

(SEAL)

Dear BEOG Applicant:

If the educational institution in which you will be enrolled for the 1979-80 award period is participating in the Basic Educational Opportunity Grant (BEOG) Program under the Alternate Disbursement System, you must complete one copy of the OE Form 304 in order to request payment of your Basic Grant award.

You should complete Part A of the OE Form 304 and have it notarized. Then, as soon as possible after you begin attending classes, you should submit the form to the Financial Aid Officer at the institution for completion of Part B. The Financial Aid Officer will return the form to you. You should then mail the form, together with one copy of your Student Eligibility Report (SER), to: Basic Grant Program, P.O. Box K, Iowa City, Iowa 52243. Keep the other parts of this packet for your records. You should retain a reproduced copy of your OE Form 304.

**Deadlines for submitting the SER and OE Form 304.** The Basic Grant regulations stipulate that, in order to receive payment, a student must submit to the school a valid Student Eligibility Report (SER) while still enrolled, and before the end of the school's academic year or before May 31, 1980 (whichever is earlier). As an exception to this, if a student's program of study begins on or after May 1, 1980, the student has until June 30, 1980 to submit a valid SER to the institution. The above deadlines apply to initial as well as subsequent payments unless unusual circumstances have occurred or corrections are

necessary. For students who enroll on or after May 1, 1980, the deadline for requesting subsequent payments is July 30, 1980. **Note:** The valid SER, together with the OE Form 304 or request(s) for additional payments, submitted to Box K in Iowa City, must be received no later than 10 days after the applicable deadlines, as specified.

**Notification, Initial payment, and additional payments.** After receipt and processing of your Request for Payment (OE Form 304), you will receive an ADS Student Report (OE Form 304-1) advising you of your Scheduled Basic Grant, your expected disbursement, the amount of your first payment, and the procedure to follow in applying for subsequent payment(s). A check for the amount of your first payment will be sent to you under **separate** cover from the U.S. Treasury Department. *Additional payments are not sent to you automatically. You must submit your ADS Student Report (OE Form 304-1) at the beginning of each subsequent term (semester, trimester, or quarter) or payment period.* **Note:** If you are a clock hour student, the amount of your award depends on the number of hours your institution expects you to complete during the 1979-80 award period. The first payment will be for one-half of the number of hours you are expected to complete during the 1979-80 award period. You may request the second payment only after you have completed the number of clock hours required for the first payment. Your second payment will then be adjusted to reflect the number of clock hours you will be expected to complete prior to the end of the award period. If you have not received your ADS Student Report after six weeks, write to BEOG, P.O. Box K, Iowa City, Iowa 52243, or call the toll-free number 800/553-6350. Be sure to include your name, permanent mailing address, telephone number, Social Security number, and date of birth.

**Amount of award.** The amount of your Scheduled Basic Grant will be computed primarily on the basis of two factors: your eligibility index (from Section 4 of your Student Eligibility

Report) and your total student cost (as supplied by the institution in Part B of the OE Form 304). The BEOG awards for full-time study for the 1979-80 award period are indicated on the 1979-80 Payment Schedule. Eligible institutions have been provided with a copy of this Schedule. The amount of the award to be paid may be less than the Scheduled Basic Grant if you (1) are enrolled on a less than full-time basis, or (2) are enrolled for less than a full academic year (clock hour programs less than 900 hours) between the dates of July 1, 1979 and June 30, 1980. An expected disbursement will be computed for you, it will reflect any reductions of the award because of these factors.

**Finding of ineligibility.** If the institution finds that you are ineligible for a BEOG award, your Request for Payment form may be returned to you unsigned by the institution (e.g., enrollment in an ineligible program of study, inconsistent data reported to the school on previous forms, etc.). If you have any questions about the institution's determination of ineligibility, you may address the questions to: BEOG Program, ADS Section, R.O.B. 3, 400 Maryland Avenue S.W., Washington, D.C. 20202. You may also address any other problems you are experiencing with corrections or payments to this address.

**Responsibility for repayment** (because of termination or overpayment). If you should terminate your enrollment for any reason before the end of an academic term or period for which you have received or applied for a payment of a BEOG award, you are required to notify the BEOG Program of the date of termination. This notification should be addressed to: BEOG Program, ADS Section, R.O.B. 3, 400 Maryland Avenue S.W., Washington, D.C. 20202. If it has been determined that you are in an overpayment status, the overpayment should be sent to the same address.

*Instructions for Completing OE Form 304*

**BEOG awards for next year.** Basic Grant awards will be computed and disbursed for the current 1979-80 award period (i.e., the period from July 1, 1979 through June 30, 1980) on the basis of your present 1979-80 Student Eligibility Report. If your period of study extends into the 1980-81 award period (i.e., the period from July 1, 1980 through June 30, 1981), you may be eligible for a Basic Grant award for that year. However, to receive payment for any study performed beyond June 30, 1980, you will be required to reestablish your financial need by submitting a new application form for the 1980-81 award period. The application form for that year will be available from participating institutions in early 1980. **Note:** If you are a clock hour student, you may receive payment in the 1980-81 award period only after you have completed the clock hours for which you were paid in 1979-80.

Sincerely,

/s/DAVID V. KERR
Director
Division of Program Operations

ADS-(304)

*Exhibit B — Instructions for Completing OE Form 304 attached to Crill Affidavit.*

**Steps in Completing OE Form 304**

**Note:** Be sure to follow these steps in completing and submitting your Request for Payment (OE Form 304).

**1** Complete Part A of the OE Form 304 in accordance with the attached instructions for Part A, and have the form notarized. Keep all other parts of this packet, and reproduced copies of your OE Form 304 and SER, for your records: they contain information for future reference.

**2** Submit the OE Form 304 and instructions to the Student Financial Aid Officer at the institution, who will complete Part B of the form in accordance with the instructions for that part and return the form to you.

**3** Detach the OE Form 304 from the instructions and submit the *form only*, together with one copy of your Student Eligibility Report (SER), to the processor.

Basic Grants Program
P.O. Box K
Iowa City, Iowa 52243

**4** Any initial payment request (OE Form 304 together with the valid SER) and any additional payment request (OE Form 304-1) must be received by the processor no later than 10 days after the applicable deadline specified on the previous page.

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**Notice to Applicants**

**Information Collected on OE Form 304:**

Subsection (e)(3) of the Privacy Act of 1974 [5 U.S.C. 552a(e)(3)] requires that an agency inform each individual whom it asks to supply information of (1) the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information

and whether disclosure of such information is mandatory or voluntary, (2) the principal purpose or purposes for which the information is intended to be used, (3) the routine uses which may be made of the information as published in the Federal Register and (4) the effects, if any, of not providing all or any part of the requested information.

1 The authority for collecting the requested information is section 411(b)(2) of Title IV-A-1 of the Higher Education Act of 1965, as amended [20 U.S.C. 1070a(b)(12)]. Applicants are advised that the disclosure of the requested information is mandatory.

2 This information is being collected in order to calculate the amount of your Basic Educational Opportunity Grant award under the Alternate Disbursement System.

3 On request information may be provided to members of Congress who inquire on behalf of a student who is a constituent, or where appropriate, on behalf of the parents of the student. In addition the routine uses listed in Appendix B of 45 C.F.R. 5B may be utilized.

4 Applicants and institutions must provide all of the requested information in order to have their requests for payment processed.

**Use of Social Security Number:**

Section 7(b) of the Privacy Act of 1974 (5 U.S.C. 522a) requires that when any Federal, State or local government agency requests an individual to disclose his Social Security account number, that individual must also be advised whether that disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and what uses will be made of it.

Accordingly, applicants are advised that disclosure of their Social Security account number (SSAN) is required as a condition for participation in the Basic Educational Opportunity Grant Program (BEOG), in view of the practical administrative difficulties which the program would encounter in maintaining adequate program records without the continued use of the SSAN.

The SSAN will be used to verify the identity of the applicant, and as an account number (identifier) throughout the life of the grant in order to record necessary data accurately. As an identifier, the SSAN is used in such Program activities as determining Program eligibility, certifying school attendance and student status, making grant payments under the Alternate Disbursement System and verifying grant payments.

Authority for requiring the disclosure of an applicant's SSAN is grounded on section 7(a)(2) of the Privacy Act, which provides that an agency may continue to require disclosure of an individual's SSAN as a condition for the granting of a right benefit or privilege provided by law where the agency required this disclosure under statute or regulations prior to January 1, 1975, in order to verify the identity of an individual.

The Office of Education has for several years consistently required the disclosure of SSAN numbers on application forms and other necessary BEOG documents. See section 411 (b)(2) of Title IV-A-1 of the Higher Education Act of 1965, as amended [20 U.S.C. 1070a(b)(2)].

**Definitions**

The new Basic Grant regulations provide for the standardization of terminology for all of the federally funded Student Financial Aid programs. The definitions of the new terms used throughout this form are as follows:

*Instructions for completing OE Form 304*

1 **Academic year** (formerly school year) A period of time in which a full-time student is expected to complete the equivalent of 2 semesters, 2 trimesters, or 3 quarters at institutions using credit hours or at least 900 clock hours of training for each program at institutions using clock hours (See *ADS Handbook* for further details.)

2 **Award period** (formerly academic year) The period of time between July 1 of one year and June 30 of the following year.

3 **Clock hour:** The equivalent of a 50- to 60-minute class lecture or recitation or a 50- to 60-minute faculty-supervised laboratory, shop training or internship. Students whose program of study does not have a minimum of 600 clock hours are not eligible.

4 **Payment period:** For institutions which use academic terms and measure progress in credit hours a payment period is a span of time which corresponds with each semester, trimester, quarter, or other academic term. Institutions which do not use semesters, trimesters, quarters or other academic terms or which do not measure progress in credit hours must have at least two payment periods between July 1 of one year and June 30 of the following year (an award period). The first payment period is the first half of the hours the student is scheduled to complete within the award period. The second payment period begins when the first payment period ends, and ends when the student completes all hours he or she was scheduled to complete by June 30. Therefore, if the student does not progress as scheduled, the second payment period may extend beyond June 30 into the new award period.

*Instructions for completing OE Form 304*

**Note:** No grant award will be made unless a completed application form has been received (20 U.S.C. 1070a, 45 C.F.R. 190.86). **Warning:** Any person who knowingly makes a false statement or misrepresentation in this form shall be subject to a fine or to imprisonment, or to both, under provisions of the U.S. Criminal Code.

**Part A — To Be Completed by the Student Applicant**

**Important:** Read this part carefully before filling out Part A of the OE Form 304. Processing cannot begin until you have submitted a completed OE Form 304 and one copy of your 1979-80 Student Eligibility Report (SER). No xeroxed or otherwise reproduced copies of these forms will be processed. Failure to type or print legibly will result in a delay in the processing of your award.

1. **Social Security Number:** Enter your Social Security number. Check to make sure that the number on your SER is the same number you enter on OE Form 304. If the number on your SER is incorrect, cross out the number on your SER and write the correct number above it. We will then correct your record. (You must sign the certification statement on your SER if any change is made. Failure to do so will delay processing of this request for payment.)

2. **Name:** Enter your last name in the first set of boxes, then your first name in the second set. Enter "Jr.", "III," etc., if applicable, as part of your last name. Check to make sure that the name on your SER is the same name you enter on the OE Form 304. If your name is incorrect on your SER (the spelling is wrong or you have recently changed your marital status), cross out the name on the SER, write the correct name above it, and submit a note explaining the change. We will then

correct your record. Note that we will not process any Requests for Payment if the names on the SER and OE Form 304 are different, unless you have indicated that the name on the SER should be changed. (You must sign the certification statement on your SER if any change is made. Failure to do so will delay processing of this request for payment.)

3. **Present Mailing Address:** Enter the address to which any payments due you and/or correspondence should be sent. Make sure you give a postal address, using the state abbreviations listed below. This is the address to which checks will be sent. An institutional address may be used ONLY if you reside at the institution. If you change your address after submitting the OE Form 304, notify your local post office so that any payments or correspondence may be forwarded. In addition, you must notify BEOG, P.O. Box K, Iowa City, Iowa 52243 of your new address in writing immediately.

4. **Permanent Mailing Address:** If the address in 3 above is not your permanent mailing address, enter your permanent mailing address here.

5. **Applicant's Signature:** After you have carefully read the Request for Payment and Student Affidavit sections of Part A, sign and date the OE Form 304 in the presence of a Notary Public.

6. **Notary Public:** You must sign the affidavit in the presence of a notary or other person who is legally authorized to administer oaths or affirmations and who does not take part in the recruiting of students for enrollment at the institution named in Part B of the OE Form 304. When the Notary Public has witnessed your signing of the Student Affidavit, (s)he will supply the required information, sign in item 6, and as applicable, affix the seal or stamp. We cannot make payments until the student affidavit is signed and properly notarized.

**State Abbreviation Codes**

| | | | |
|---|---|---|---|
| Alabama | AL | New Jersey | NJ |
| Alaska | AK | New Mexico | NM |
| Amer. Samoa | AS | New York | NY |
| Arizona | AZ | North Carolina | NC |
| Arkansas | AR | North Dakota | ND |
| California | CA | Ohio | OH |
| Canal Zone | CZ | Oklahoma | OK |
| Colorado | CO | Oregon | OR |
| Connecticut | CT | Pennsylvania | PA |
| Delaware | DE | Puerto Rico | PR |
| District of | | Rhode Island | RI |
| Columbia | DC | South Carolina | SC |
| Florida | FL | South Dakota | SD |
| Georgia | GA | Tennessee | TN |
| Guam | GU | Texas | TX |
| Hawaii | HI | Trust Territories | TT |
| Idaho | ID | (Marshall Islands, | |
| Illinois | IL | Mariana Islands | |
| Indiana | IN | & Caroline Islands) | |
| Iowa | IA | Utah | UT |
| Kansas | KS | Vermont | VT |
| Kentucky | KY | Virgin Islands | VI |
| Louisiana | LA | Virginia | VA |
| Maine | ME | Washington | WA |
| Maryland | MD | West Virginia | WV |
| Massachusetts | MA | Wisconsin | WI |
| Michigan | MI | Wyoming | WY |
| Minnesota | MN | | |
| Mississippi | MS | | |
| Missouri | MO | | |
| Montana | MT | | |
| Nebraska | NE | | |
| Nevada | NV | | |
| New Hampshire | NH | | |

If your place of residence is not included above, leave the state code blank and write the name of the country or territory in the space for city

*Instructions for completing OE Form 304*

**Part B—To Be Completed by the Institutional Official**

**Do not complete this form until after the student has actually begun attending classes.**

**Note:** When you receive the Request for Payment of BEOG Award from the student, review Part A for completeness and confirm that the form has been properly notarized. To avoid delays in processing, read instructions as you complete this form and be sure to complete every item. If your institution has certain programs that are not eligible, make sure the applicant has chosen an eligible program before completing Part B. **The student will be instructed to return the form to you if information is not complete.**

7. **Name and Address of Institution:** Enter the name and address of the institution. If you have separate programs under separate BEOG ID numbers, give the full name of the program in which this student is enrolled. This applies to all hospital-related schools which have several programs. If the student is attending the medical technology program, be sure to include School of Medical Technology as part of the name.

8. **BEOG ID No.:** Every eligible institution, whether participating in the BEOG program directly or through the ADS system, has been assigned a 6-digit numeric code for identification purposes by the U.S. Office of Education. Enter your BEOG ID number. If you do not know your BEOG ID number, contact the BEOG Program, ADS Section, R.O.B. 3, 400 Maryland Avenue S.W., Washington, D.C. 20202.

9. **Institution's Academic Calendar:** The 4 systems indicated in this item of the form are the only systems by which payment requests will be processed. "System" as used on this form means the method by which a student's progress is measured and by which the academic year is broken down. You must check only

ONE system. If your institution does not seem to fit any of these systems, decide which system is the closest to your actual situation. "System" as used on this form does NOT mean billing method. Awards are made on the basis of the type of academic structure, not according to billing dates. A general description of each type of system is provided below to help you determine which system best describes your academic calendar.

*Clock hour system* is that of an institution where the student's progress is measured in number of daily or weekly clock hours completed, or where the student's progress is measured in credit hours but the school year is not divided into regular quarter semester, trimester, or other academic terms; or where the program of study is continuous rather than broken into standard quarter, semester, or trimester terms. A clock hour is the equivalent of a 50- to 60-minute class, lecture, or recitation; or a 50- to 60-minute faculty-supervised laboratory, shop training, or internship. An eligible program at a proprietary institution must consist of at least 600 clock hours of training. An eligible program at a nonproprietary institution must consist of at least 900 clock hours of training. An academic year must be at least 900 clock hours.

*Quarter system* is that of an institution whose yearly system is divided into standard academic terms that are roughly 3 months in length, with a scheduled beginning and ending date for each term, and where a student's status is measured each term in quarter hour credits. Three quarters are defined as an academic year.

*Semester or trimester system* is that of an institution whose yearly system is divided into standard academic terms that are roughly 4 to 5 months in length with a scheduled beginning and ending date for each term, and where a student's progress is measured each term in semester hour credits. Two semesters or trimesters are defined as an academic year. A trimester system differs from a semester system only in that trimesters offer a third term of 4 to 5 months, but, as in a semester system,

a student need attend only 2 trimesters on a full-time basis to have completed 1 academic year.

10. **Transfer Dates:** If the student attended an institution other than the institution identified in item 7 on or after July 1, 1979, indicate the name of the other institution and the dates of attendance since July 1, 1979.

**10A. Clock hour.** If you checked "C" in item 9, indicate the total number of hours in the student's ENTIRE program, even though the program may (but does not have to) extend beyond the current award period; the number of hours to be completed per week; the number of weeks to be completed in the award period (cannot exceed 52 weeks and should not include vacation time), and the length in clock hours of the academic year for the student's program. (An academic year must be at least 900 clock hours for the student to receive a full award.) Then enter the student's beginning and anticipated ending date for the ENTIRE program. (Example: If a student is enrolled in an 18-month course which began on 04/02/78 and will end on 10/01/79, enter 04/02/78 as the beginning date and 10/01/79 as the ending date.) Enter the date the student actually began attending classes as the beginning date and the calculated completion date as the ending date. The student will be paid the first half of his or her BEOG award only for the first half of the hours to be completed during the award period with this payment request.

Based on the above information, the ending date for the first payment period will be the date on which one-half of the total number of hours in the award period is completed. The student must then submit a Request for Additional Payment (ADS Student Report OE Form 304-1) to receive the second half of his or her award. No second payment will be awarded if the student does not COMPLETE the total number of clock hours in the first payment period. The second period begins when the total number of hours in the first payment period has been completed.

If this is a retroactive payment, please be sure to indicate the actual date the student began classes and the number of hours which he or she has already completed within the current award period (07/01/79-06/30/80). Be sure to include in that item (10A(2)) the number of hours he or she is expected to complete. **Note:** A student cannot receive the second payment until he or she has completed the total number of hours in the first payment period. If the student receives a second disbursement but has fallen behind in completing his or her hours before the end of the award period, no further recalculation is necessary. However, the student would receive no disbursement for the 1980-81 payment period until he or she completes the total number of hours for which he or she has been paid.

**10B. Term based.** If you checked "Q," "S," or "T" (quarter, semester, or trimester system) in item 9 enter the beginning and ending dates for the FIRST TERM (whether quarter, semester, or trimester) which the student attended or is attending, all or part of which falls within the current award period, even if it is not the term the student is currently attending. (The current award period extends from 07/01/79 to 06/30/80.) If the student is requesting payment for the current term, list the beginning and ending dates of this term. We will calculate an award and make first payment for the student based on the system and dates you enter. If the student does not complete the academic year in accordance with the anticipated attendance we will adjust the award according to the information provided when the student requests payment for subsequent term(s).

A student can be paid in advance for only one term at a time. (S)he is eligible for payment for any term (s)he has already completed if (s)he is still attending the same school. In order to receive retroactive payment the student must submit an OE Form 304 for the first term s(he) completed, all or part of which must fall within the current award period (i.e., between 07/01/79 and 06/30/80). When OE Form 304 processing is completed, (s)he will receive an ADS Student Report. Payment will

be received directly from the U.S. Treasury Department. The student must then submit the ADS Student Report to the processor to request payment for the next term (s)he has completed or is attending. Payment for subsequent terms is NOT AUTOMATIC.

**Status:** For a student requesting payment for the term (s)he is currently attending, determine the student's status as of the day (s)he submits the OE Form 304 to you. For a student who is requesting payment for a term (s)he has already completed, determine status according to the number of hours the student carried during the term and from which (s)he did not withdraw, NOT according to the number of hours for which credit was actually earned (Example: A student carried 12 credit hours during the first semester but failed one course and so earned only 8 hours. This student would still be considered full-time since (s)he actually attended classes all term on a full-time basis.) Check the appropriate box in item 10B(2) to indicate the student's attendance status. Regulations governing definitions of full-time and part-time students are given below.

*Definition of full-time status.* Students must meet certain work-load and tuition and fees criteria in order to be considered full time. The institution's definition of full-time should be used if it exceeds the following minimum requirements.

A. *Clock hours.* For institutions on a clock-hour system, a student must be enrolled for a minimum of 24 clock hours per week to be considered full-time.

B. *Term based.* For institutions which divide their academic year into standard quarter, semester, or trimester terms and which measure progress by quarter, semester, or trimester credits, a student must be enrolled for at least 12 quarter or semester hours per academic term.

C. For institutions which measure progress by quarter,

semester or trimester hours but which do not divide their academic year into specific terms, a student must be enrolled for 36 quarter hours or 24 semester or trimester hours per school year.

D. Students enrolled in a specially scheduled series of academic terms which are designed to provide a minimum of 12 quarter or semester hours during a period not exceeding 18 weeks would be considered full-time.

E. If an institution offers programs of study for which progress is measured in terms of a combination of credit hours and clock hours, contact the ADS Section of the Basic Grant Program for further guidance.

In addition to meeting the workload criteria, a full-time student must be charged the tuition and fees normally charged by the institution for a student who is taking a full-time course load.

*Definition of three-quarter-time status.* A three-quarter-time student is defined as a student carrying at least 75% but less than 100% of the full-time workload.

*Definition of half-time status.* A half-time student is defined as a student carrying at least 50% but less than 75% of the full-time workload.

*Correspondence school students.* Program regulations specify that in order for a student engaged in study by correspondence to be eligible as a half-time student, such study must require a minimum of 12 hours of preparation per week. Correspondence school students cannot be classified as more than half-time for purposes of the BEOG Program.

*Summer terms prior to the regular academic year.* **(Note:** This section applies only to term-based/credit-hour students.) The revised regulations provide that an institution which has terms and which measures progress by credit hours shall designate any term (e.g., a summer term) which begins in one award period and ends in the next award period as a part of either the first or the next award period. This designation must be the same for all Basic Grant recipients at the school. The calculation of the award for such a term will then be based on the Student Eligibility Report for the award period designated by the institution. Of course, the student may never receive more than one Scheduled Basic Grant during an award period. Payment for a summer term may result in a reduction in a later payment.

Enter the beginning and ending dates of the entire summer term or series of terms. Also enter the student's enrollment status over the entire summer session(s). In item 12A enter the tuition and fees which would be charged for a full-time student for the summer session(s) multiplied by the number of terms in an academic year.

*Summer terms after the regular academic year.* If the student attends summer term(s) or session(s) in the spring or summer (beginning before June 15, 1980) and will earn at least 6 credit hours, and if the student has not exhausted his or her maximum entitlement, (s)he may apply for payment for such summer term(s) up to the amount of entitlement remaining if this term has been designated as being eligible for payment in this award period.

11. **Termination Dates:** If the student has dropped out or his or her enrollment has been terminated before the ending date of the term or period specified in item 10, and if he

or she has met the deadline for submission of the Student Eligibility Report (SER) before such termination, the student may be eligible to receive a prorated payment for a portion of the term or clock hours credited to the student's program. In the case of a student who has terminated before the date of institutional certification, the institution should indicate the dates of the regular term (or program) in item 10, but should indicate in item 11 the student's last date of attendance, and, for clock-hour courses, the actual number of hours credited to the student's program between July 1, 1979 and June 30, 1980, in the blocks provided. Do not report a student's graduation date in this area. **Note:** It is the responsibility of the school to report to the Basic Grant Program any termination(s) of enrollment, official or unofficial.

12. **Student Cost Information:** There are three elements used to compute the total allowable cost for a student. These are (A) tuition and fees, (B) room and board cost or allowance, and (C) an allowance for books, supplies, and miscellaneous expenses. Note that the amounts you enter in these items will be used in calculating the student's award.

A. *Tuition and fees.* Enter the amount in item 12A of the OE Form 304 in accordance with the following instructions.

1. Do NOT include the cost of books, supplies, or miscellaneous expenses to the student as tuition and fees. These expenses are covered in a separate allowance.

2. Include as fees only those which are generally charged to all students or to a particular class of students of which the student is a member. (Examples: A parking fee is not allowed but a laboratory fee for

chemistry students is allowed. Tuition and fees may include travel costs within the U.S. if required for completion of the course of study, but not for travel between the student's residence and the institution, or for travel outside the U.S.)

3. In the unusual instance that an institution does not charge any tuition and fees, enter $0. Do not leave the item blank.

4. *For clock hour schools.* If you checked box C in item 9, the entry should reflect tuition and fees for the entire course. If the length of the student's program exceeds the length of the institution's normal academic year, the amount reported for tuition and fees will be prorated by the Commissioner in the following manner: Institutional charges for tuition and fees times (the number of clock hours in the institution's academic year divided by the number of clock hours in the entire program).

5. *For full-time students at term-based schools.* If you checked Box Q, S, or T in item 9, the entry should reflect actual tuition and fees for the term projected for an entire academic year (i.e., for 3 quarters or for 2 semesters or trimesters), even if the student is enrolled for less than the full year. (Example: Even if a student enrolls for the second semester only, enter the tuition and fees for 2 semesters.)

6. *For part-time students.* Enter in item 12A the amount which would normally be charged to a full-time student, NOT the amount of actual costs for the part-time student.

B. *Room and board.* Calculate the amount for room and board in accordance with the following instructions and enter that amount in item 12B. If the student is con-

tracting with the institution for room and/or board, the amount should be based on actual costs to a student for a normal academic year, even if the student is enrolled for less than the full year. If the student is not contracting with the institution, standard allowances are provided for living expenses. Students who are enrolled in correspondence courses, or who are incarcerated, are not ordinarily eligible to receive any room and board allowances, for exceptions, see item 3 below.

1. If the student is living at home or off campus and is not contracting with the institution to provide either room or board, enter the standard allowance of $1,100 for living costs. (Exception: For incarcerated individuals or correspondence school students, see item 3 below.)

2. If the student is contracting with the institution for room and/or board:

a. If the student is paying for both room and board through the institution, enter the cost for a full academic year.

b. If the student is paying for room only through the institution, enter the SUM of the cost of room for a full year plus $625 for standard board allowance (i.e., room cost + $625 = item 12B entry).

c. If the student is paying for **board only** through the institution, enter the SUM of the cost of board for a full year **plus** $475 for standard room allowance (i.e., board cost + $475 = item 12B entry)

3. If the student is enrolled in a **correspondence** course, or is **incarcerated,** enter $0 in item 12B. Exceptions: if a correspondence course involves a required period of residential training, actual contracted costs or a prorated standard allowance for room and board for

such period may be included. If less than one-half of room and board expenses is provided for an incarcerated student, actual contracted costs or a standard allowance may be included. See *ADS Handbook* for additional details.

C. *Allowance for books, supplies, and miscellaneous expenses.* Program regulations provide for a **standard allowance** of $400, except for two types of students

1. If the student is enrolled in a **correspondence** course, cross out the $400 allowance shown in item 12C and write in $0 above it. No allowance is provided for correspondence course students.

2. If the student is **incarcerated,** cross out the $400 allowance shown in item 12C and write in $150 above it. The allowable $150 is for books and supplies.

Unless the student is enrolled in a correspondence course or is incarcerated, (s)he is entitled to the **standard allowance** of $400 shown in item 12C. No justification of this amount is required and no other amount may be entered.

D. Enter in item 12D the sum of items 12A, 12B, and 12C. This sum will be used in calculation of the student's Scheduled Basic Grant award. The sum in item 12D is the same as the total student cost referred to in the Payment Schedule for the 1979-80 award period and is used to compute the Scheduled Basic Grant award. **Note:** For clock-hour students, if tuition and fees are prorated (see item 12, part A, number 4), the sum of the prorated amount for tuition and fees plus the room and board amount plus the standard allowance for books and miscellaneous expenses will be used to determine the student's Scheduled Basic Grant award.

13. **Certification by Institutional Official.** The certification must be signed and dated by the institutional official who completes Part B. Requests for Payment cannot be processed unless the institution's certification is dated on or after the date the student begins attending classes.

Basic Grant regulations stipulate that the student must be enrolled in an eligible program. The definition of an eligible program in a public or nonprofit private college, university, junior college, community college, or vocational school is an undergraduate program of education or training which (1) admits as regular students only persons who have a certificate of graduation from a secondary school (high school graduates), or have the equivalent of a high school diploma or a General Education Development (GED) Certificate, or are beyond the age of compulsory school attendance in the State in which the institution is located and may benefit from the education or training offered, (2) leads to a bachelor's, associate, or undergraduate professional degree, is acceptable for full credit toward a bachelor's degree, or is at least a 1-year program leading to a certificate or degree which prepares students for gainful employment in a recognized occupation. An eligible program in a proprietary institution of higher education is an undergraduate program of education or training which (1) admits as regular students only high school graduates or those having a recognized equivalent, (2) leads to a degree or certificate, (3) prepares students for gainful employment in a recognized occupation, and (4) is at least a 6-month program as described in the *ADS Handbook*.

If the student does not meet the criteria specified in the certification, the student is not eligible to receive a BEOG award. In such a case, the institution should not

sign the certification, but should notify the student that (s)he has not met the specified criteria. If the student has a question about your determination, (s)he may write to BEOG Program, ADS Section, R.O.B. 3, 400 Maryland Avenue S.W., Washington, D.C. 20202.

After you have completed the certification, return the form to the student, who will then submit it for payment: The student will be notified of the result of the request and payment will be made directly to the student by the U.S. Treasury Department.

**Exhibit C — OE Form 304**
**attached to Crill Affidavit.**

Department of Health, Education and Welfare
U.S. Office of Education
Form Approved — OMB No. 51-R0989

**OE Form 304**

**Request for Payment of BEOG Award 1979-80 Academic Year**
Basic Educational Opportunity Grant Program

This form is to be used only by students attending eligible institutions which have entered into an Alternate Disbursement System agreement with the U.S. Commissioner of Education by which the Commissioner will determine and make awards for the Basic Educational Opportunity Grant Program. Part A is to be completed by the student and Part B by the institution. No grant award will be made unless a completed application form has been received (20 U.S.C. 1070a, 45 C.F.R. 190.86).

*Instructions for completing OE Form 304*

**Part A—To Be Completed by the Student Applicant**

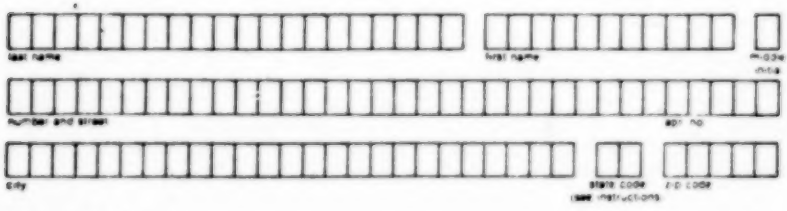
Read page 1 of the instructions before completing this part. Please type or print clearly using block letters.

---

**Applicant Identification**

**1. Social Security Number** ☐☐☐ ☐☐ ☐☐☐☐

**2. Name**



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**3. Present Mailing Address.** Enter address to which any payments due you should be mailed. If you change your address after submitting the OE Form 304, notify your local post office so that any payments/correspondence may be forwarded. In addition, notify BEOG, P.O. Box K, Iowa City Iowa 52243 of your new address in writing.

**4. Permanent Mailing Address**
if different from above

---

number and street apt. no

---

city state zip code

Telephone No. _____ _____
area

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*OE Form 304*

**Request for Payment**

I am hereby submitting with this form one copy of my Student Eligibility Report (SER) (which only needs to be completed as far as Section 2).

I request that the amount of my BEOG award for the academic year 1979-80 be determined, and that the first payment be made to me based on information submitted with this form.

I CERTIFY that (1) I do not owe a refund on any grant previously received for attendance at the institution (as named in Part B) under the Basic Educational Opportunity Grant Program, the Supplemental Educational Opportunity Grant Program, or the State Student Incentive Grant Program, and (2) I am not in default on any loan from a student loan fund at the institution (as named in Part B) made under the National Direct Student Loan Program, or made, insured, or guaranteed by the U.S. Commissioner of Education under the Guaranteed Student Loan Program.

---

**Student Affidavit**

I hereby affirm that any funds received under the Basic Educational Opportunity Grant Program will be used solely for expenses related to attendance, or continued attendance, at the institution named in Part B.

Further, If my enrollment should be terminated for any reason during an award period for which I have received (or applied for) payment of BEOG award, I understand that I am responsible for repayment of a prorated amount of that payment, to be determined by the U.S. Commissioner of Education. I understand that the institution is responsible for notifying the Basic Grant Program (ADS Section), R.O.B. 3, 400 Maryland Avenue S.W., Washington, D.C. 20202, of any such termination in writing.

*OE Form 304*

**5. Applicant's Signature**

_____ Date_____

(Sign only in presence of notary)

**6. Notary Public**

Subscribed and sworn before me this

_____ day of _____, 19____ SEAL

Signature of Notary Public _____

Address of Notary Public _____

My Commission expires _____

**Be sure that you sign your "Request for Payment" and attach one copy of your SER before mailing.**
**Both the SER and OE Form 304 should be mailed to:**
**BEOG, P.O. Box K, Iowa City, Iowa 52243.**

OE FORM 304 (4/79)
PREVIOUS EDITION IS OBSOLETE AFTER 06/30/79

# *OE Form 304*

## Part B—To Be Completed by the Institutional Official

Read pages 2 through 4 of the instructions before completing this part.

### Identification

7 Name of Institution. Please print. _____

Address of institution. _____ (Number and street) _____ (City) _____ (State) _____ (Zip code)

8 **BEOG ID No.** ☐☐☐☐☐☐☐☐☐☐ (Numbers taken OE Vendor Code)

### Data for Calculation of Award

9 **Institution's Academic Calendar.** Check only one box. See instructions on page 2 before completing.

C ☐ Clock-hour System  Q ☐ Quarter System  S ☐ Semester System  T ☐ Trimester System

10 **Transfer Dates.** If the student attended an institution other than the institution indicated in item 7 above on or after July 1, 1979, please indicate the name of the school, the state, and the dates of attendance since July 1, 1979, at the other institution.

Name _____ State _____ Beginning date (month, day, year) ☐☐ ☐☐ ☐☐ Ending date (month, day, year) ☐☐ ☐☐ ☐☐

Complete either 10A or 10B below, but not both. See instructions on pages 2 and 3.

**10A Clock-hour institutions.** If you checked box C in item 9 above, complete 1, 2, 3, and 4 below.

(1) How many total clock hours are in the student's ENTIRE program? ☐☐☐☐☐

(2) How many hours per week and how many weeks is the student expected to complete in the award period (07/01/79-06/30/80)? ☐☐ hours ☐☐ weeks

(3) What is the length in clock hours of the student's academic year? See definition of academic year. ☐☐☐☐☐

(4) Enter the student's beginning and anticipated ending dates of attendance.
Beginning date of course (month, day, year) ☐☐ ☐☐ ☐☐ Ending date of course (month, day, year) ☐☐ ☐☐ ☐☐

**10B Term-based institutions.** If you checked box Q, S, or T in item 9 above, complete 1 and 2 below.

(1) Enter the beginning and ending dates of the FIRST quarter, semester, or trimester which the student attended or is attending, or part of which falls within the current award period. (The current award period extends from 07/01/79 through 06/30/80.) Do not report the entire year.
Beginning date of term (month, day, year) ☐☐ ☐☐ ☐☐
Ending date of term (month, day, year) ☐☐ ☐☐ ☐☐

(2) Status. Check the student's attendance status for the term specified above.
F ☐ full time  T ☐ three-quarter time  H ☐ half time

**11. Termination Dates.** Enter the student's last day of attendance if he or she has dropped out of school. See instructions on page 3 before completing.

(month, day, year) ☐☐ ☐☐ ☐☐ Hours actually credited to student's program (if study of this award period is 07/01/79-06/30/80) ☐☐☐☐

**12 Student Cost Information.** Complete items A, B, C, and D in accordance with the instructions on pages 3 and 4; do not leave any items blank.

A. Tuition and fees. See item 12A instructions on pages 3 and 4. A $ ☐☐☐☐ .00

B. Room and board. See item 12B instructions on page 4. B $ ☐☐☐☐ .00

C. Allowance for books, supplies, and miscellaneous expenses. The standard allowance is $400. However, if the student is enrolled in a correspondence course or is incarcerated, check here ☐ cross out the $400 allowance shown, and see item 12C instructions on page 4 for the amount to be entered. C $ 4 0 0 .00

D. Total allowable student costs for the full academic year. Enter the sum of the amounts in A, B, and C above. D $ ☐☐☐☐ .00 TOTAL

**Certification by Institutional Official**

I certify that, to the best of my knowledge, the above information is correct and the applicant named in Part A is an eligible student.

The student is (or will, actually, attending classes in an eligible program as of the beginning dates shown in item 10 above and is maintaining satisfactory academic progress, and has not terminated his or her enrollment as of the date of this certification (or the student has terminated enrollment before this date; refer to page 3 of the instructions).

13 **Signature of Institutional Official** _____ Date (month, day, year) ☐☐ ☐☐ ☐☐

Title _____ Telephone No. (area code) _____

★ U.S. GOVERNMENT PRINTING OFFICE: 1979 O — 281-555

**AFFIDAVIT OF MARIANNE SICKAFUSE, DATED 7/31/79**

AFFIDAVIT OF MARIANNE SICKAFUSE
IN SUPPORT OF MOTION.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

AFFIDAVIT IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT

Civil Action No.
78-1293

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GROVE CITY COLLEGE, Individually and on behalf of its students; MARIANNE SICKAFUSE; KENNETH J. HOCKENBERRY; JENIFER S. SMITH; and VICTOR E. VOUGA,

*Plaintiffs,*

*vs.*

JOSEPH A. CALIFANO, JR., Secretary of the United States Department of Health, Education and Welfare; DAVID TATEL, Director of the United States Office for Civil Rights,

*Defendants.*

---

MARIANNE SICKAFUSE, being duly sworn, says:

1. I am a plaintiff in the above-captioned action, and I make this affidavit in support of plaintiffs' motion.

2. I am a full-time student at Grove City College and a recipient of a Basic Educational Opportunity Grant totaling $400 for the academic year 1978-79.

3. In February 1978, I obtained a Financial Aid Form for the academic year 1978-79. The Financial Aid form is a document of the College Entrance Examination Board, a private corporation located in Princeton, New Jersey which

administers the College Entrance Examination and which provides a clearinghouse for financial aid information for colleges. The Financial Aid form is used for and financial aid programs administered by Colleges and Universities, for many State scholarships and for the federal Government's Basic Educational Opportunity Grant program. A sample is attached as Exhibit A.

4. I completed the Financial Aid Form as directed, and specifically completed Items 83 and 84, authorizing release of the form to the BEOG program. I then mailed the completed form directly to Princeton, N.J. Grove City College was not involved.

5. Later in 1978, I received from the BEOG Program a form identified as a Student Eligibility Report ("SER"). The SER summarized the data I submitted in my application form, and indicated whether I was eligible, in terms of financial need, for receiving a BEOG. The SER also set out an "eligibility index", which I understood would be used in computing the eventual amount of my BEOG award.

6. Thereafter, I also obtained a "Request for Payment of BEOG Award" (OE Form 304, called in this affidavit the "Request") and accompanying instructions. I understood from the instructions that because Grove City College would not process or render a BEOG award directly, I should complete the request, obtain certification from the College, and mail the Request directly to the Basic Grants Program. Accordingly, I completed Part A of the Request and took the Request to the College Financial Aid Office. While I waited, a College official completed Part B of the Request, which certified the tuition, room, and board costs charged to me, as well as the fact that I was an enrolled student at the College. I understood that the college made no decision as to my eligibility and limited its participation to providing the information requested on Part B

of the Request. I then mailed the completed Request (attached as Exhibit B to this Affidavit), to the Basic Grants Program in Iowa City, Iowa.

7. Some time afterward, I received from the Basic Grants Program a notice indicating the BEOG award I could expect to receive, and instructions that a United States Treasury Check would be sent to me under separate cover.

8. In December, 1978 I received a United States Treasury check for $204 payable directly to me. In March of 1979, I received a second check for $204 which completed the award for 1978-79. Because Grove City College requires full payment of all charges before classes begin, I used the $408 at my discretion to pay various educational expenses, including money I borrowed to pay tuition at the semesters beginning.

9. Among the reasons I chose to attend Grove City College were the civic and religious principles which guide its educational philosophy. Unless I continue to receive BEOG awards, I will be financially unable to continue at the College.

/s/ MARIANNE SICKAFUSE

Subscribed and sworn to before
me on July 31, 1979.

Carl M. Sautter,
Notary Public
CARL M. SAUTTER, Notary Public
Grove City, Mercer Co., Pa.
My Commission Expires Sept. 5, 1981

[Exhibits omitted]

**AFFIDAVIT OF KENNETH J. HOCKENBERRY, DATED 8/2/79**

AFFIDAVIT OF
KENNETH J. HOCKENBERRY
IN SUPPORT OF MOTION

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

AFFIDAVIT IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT

Civil Action No.
78-1293

---

GROVE CITY COLLEGE, Individually and on behalf of its students; MARIANNE SICKAFUSE; KENNETH J. HOCKENBERRY; JENIFER S. SMITH; and VICTOR E. VOUGA,

*Plaintiffs,*

*vs.*

JOSEPH A. CALIFANO, JR., Secretary of the United States Department of Health, Education and Welfare; DAVID TATEL, Director of the United States Office for Civil Rights,

*Defendants.*

---

KENNETH J. HOCKENBERRY, being duly sworn, says:

1. I am a plaintiff in the above-captioned action, and I make this affidavit in support of plaintiffs motion.

2. I am a full-time student at Grove City College and a recipient of a Basic Educational Opportunity Grant totaling $654, as well as a Guaranteed Student Loan ("GSL") totaling $2000 for the academic year 1978-79.

3. In January, 1978, I received a New Jersey Financial Aid

Form for the academic year 1978-79. The 1979-80 form is attached as Exhibit A; it is the same as the form which I received last year. It is a document of the College Entrance Examination Board, the private corporation which provides a clearinghouse for financial aid information. I am aware that the Form is used for many financial aid programs administered by colleges and universities, for State financial aid programs and, upon authorization by the Student, for the federal government's Basic Educational Opportunity Grant program.

4. Together with my parents, I filled out the application form, including financial information which I understood would in part determine my eligibility for a BEOG. I mailed the completed form to C.E.E.B. in Princeton. Grove City College did not participate.

5. Later in 1978, I received from the BEOG Program a form identified as a Student Eligibility Report ("SER"). The SER summarized the data I submitted in my application form, and indicated whether I was eligible, in terms of financial need, for receiving a BEOG. The SER also set out an "eligibility index", which I understood would be used in computing the eventual amount of my BEOG award.

6. Thereafter, I also obtained a "Request for Payment of BEOG Award" (OE Form 304, called the "Request" in this Affidavit) and accompanying instructions. I understood from the instructions that because Grove City College would not process or render a BEOG award directly, I should complete the request, obtain certifications from The College, and mail the Request directly to the Basic Grants Program. Accordingly, I completed Part A of the Request and took the Request to the College Financial Aid Office. While I waited, a College official completed Part B of the Request, which certified the tuition, room, and board costs charged to me, as well as the fact that I was an enrolled student at The College. I understand that The

College made no decision as to my eligibility and that it limited its participation to providing the information desired in Part B of the Request. I then mailed the completed Request (attached as Exhibit B to this Affidavit) to the Basic Grants Program in Iowa City, Iowa.

7. Some time afterward, I received from the Basic Grants Program a notice indicating the BEOG award I could expect to receive, and instructions that a United States Treasury Check would be sent under separate cover.

8. As of the date of this Affidavit, I have not yet received the check promised. Upon inquiring, I was told that my application had been randomly selected for audit. I still do not know when my check will arrive.

9. The GSL I received was also obtained without any active participation by The College. About May 1978, I picked up a Higher Education Loan Program application form from the United Jersey Bank in Dover, New Jersey. I was informed that I was eligible to obtain a GSL from the bank, provided that I secure approval from the New Jersey Office of Student Assistance.

10. I filled out the form, had it notarized, and thereafter mailed it to the College, where, upon information and belief, the section requiring certification that I was an enrolled student, as well as the cost of tuition, room, and board to be charged to me, was filled out by the College. I believe the application form was returned to the bank, which then mailed the form directly to the Office of Student Assistance, New Jersey Department of Higher Education, 225 West State Street, Trenton, New Jersey 08625.

11. In July 1978 later, I received notification from the Office of Student Assistance that my loan application would be guaranteed by New Jersey through the Higher Education Loan

*Affidavit of Kenneth J. Hockenberry, dated 8/2/79*

Program. I returned the notification to Bank, agreed on a repayment schedule and received a check for $2000. I used the $2000 to pay various educational expenses, including tuition, room and board.

12. I chose to attend Grove City College because of the civic and religious principles which guide its educational philosophy. I understand from the decision of Administrative Law Judge Albert Feldman dated September 16, 1978, that should I continue to attend Grove City College, I will be unable to receive funds from GSL and BEOG awards. Unless I continue to receive those funds, I will be unable to continue in attendance at the college of my choice.

/s/ KENNETH J. HOCKENBERRY

Subscribed and sworn to
before me on 8/2/79, 1979.

/s/ GEORGE L. WEGER, JR.
Notary Public

GEORGE L. WEGER, JR.
Notary Public of New Jersey
My Commission Expires March 21, 1982

[Exhibits omitted]